

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONONDAGA-----X
JOHN DOE,

Plaintiff,

Index No. _____

SUMMONS

-against-

NEW YORK STATE CATHOLIC CONFERENCE;
ROMAN CATHOLIC DIOCESE OF OGDENSBURG,
NEW YORK A/K/A DIOCESE OF OGDENSBURG;
IMMACULATE HEART CENTRAL HIGH
SCHOOL; and DOES 1-5 whose identities are
unknown to Plaintiff,Defendants.
-----X

To the Persons Named as Defendants above:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the Complaint of the Plaintiff herein and to serve a copy of your answer on the Plaintiff at the address indicated below within twenty (20) days after the service of this Summons (not counting the day of service itself), or within thirty (3) days after service is complete if the Summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer, a judgment will be entered against you by default for the relief demanded in the Complaint.

Dated: October 3, 2019

County: Onondaga



Brian D. Kent, Esq.
Gaetano A. D'Andrea (Pro Hac Vice Pending)
Lauren E. Stram (Pro Hac Vice Pending)
LAFHEY, BUCCI & KENT, LLP
Attorneys for the Plaintiff
3 Columbus Circle, 14th Floor

New York, New York 10070
(347) 338-0946

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONONDAGA

-----X
JOHN DOE,

Plaintiff,

Index No. _____

COMPLAINT

-against-

NEW YORK STATE CATHOLIC CONFERENCE;
ROMAN CATHOLIC DIOCESE OF OGDENSBURG,
NEW YORK A/K/A DIOCESE OF OGDENSBURG;
IMMACULATE HEART CENTRAL HIGH
SCHOOL; and DOES 1-5 whose identities are
unknown to Plaintiff,

DEMAND FOR JURY¹

Defendants.

-----X

Plaintiff, John Doe, by and through his attorneys, LAFFEY, BUCCI & KENT, LLP, as and
for his Complaint in this matter against Defendants, states and alleges as follows:

PARTIES

1. Plaintiff, John Doe (a fictitious name), brings this action under a pseudonym with leave of Court.
2. Plaintiff, John Doe, is a sixty one (61) year old resident of the State of Georgia, and former resident of the State of New York.
3. Plaintiff was approximately fourteen (14) to fifteen (15) years old at the time of the sexual abuse pled herein. This action has been timely filed pursuant to New York Civil Practice Law and Rule §214-g.
4. At all times material, Defendant New York State Catholic Conference (hereinafter “Catholic Conference”) was and continues to be an organization or entity which includes, but

¹ Pursuant to §4 of the New York Child Victims Act, Plaintiff is entitled to a trial preference.

is not limited to, civil corporations, decision making entities, officials and employees authorized to conduct business and conducting business in the State of New York with its principal place of business at 465 State Street, Albany, New York.

5. The Catholic Conference was created in approximately 1977. Later, Defendant Catholic Conference entered a corporation called the New York State Catholic Conference to conduct some of its affairs.

6. The Catholic Conference represents New York Bishops and Archbishops and their dioceses. The Catholic Conference functions as a business by engaging in activities promoting, advancing, and furthering the policies, practices, and interests of Catholic institutions in New York.

7. Defendant New York Catholic Conference coordinates its efforts in conjunction with each Diocese in New York.

8. At all times material to the Complaint, Defendant Roman Catholic Diocese of Ogdensburg, New York a/k/a Diocese of Ogdensburg (hereinafter "Diocese") was and continues to be an organization or entity, which includes but is not limited to civil corporations, decision making entities, officials and employees, authorized to conduct business and conducting business in the State of New York within the Counties of Clinton, Essex, Franklin, Jefferson, Lewis, St. Lawrence, Hamilton, and Herkimer, with its principal place of business at 622 Washington Street, Ogdensburg, New York 13669.

9. The Diocese was created in 1872. Later, the Diocese created a corporation called the Ogdensburg Diocese to conduct some of its affairs.

10. The Diocese operates its affairs as both a corporate entity and as an organization with the Bishop as the top official. These entities and all other corporations and entities

controlled by the Bishop are included in this Complaint as being the Diocese. The Bishop is the top official of the Diocese and is given authority over all matters within the Diocese. The Diocese functions as a business by engaging in numerous revenue producing activities and soliciting money from its members in exchange for its services.

11. The Diocese has several programs which seek out the participation of children in the Diocese's activities.

12. Twelve (12) schools for children ranging from pre-school through twelfth (12th) grade are within the Diocese.

13. The Diocese has the power to appoint, supervise, monitor and fire each person working with children in the Diocese.

Jurisdiction

14. This Court has jurisdiction pursuant to C.P.L.R. § 301 as Defendants' principal place of business is in New York and because the unlawful conduct complained of herein occurred in New York.

15. Venue is proper pursuant to C.P.L.R. § 503 in that the events giving rise to this action occurred in Onondaga County, New York.

Background

16. At all times relevant and material, St. Anthony Parish (hereinafter "St. Anthony") was and continues to be a Catholic Church owned and/or operated by the Diocese and is located at 850 Arsenal Street, Watertown, New York, 13601.

17. At all times relevant and material, Church of the Holy Family (hereinafter “Holy Family”) was and continues to be a Catholic Church owned and/or operated by the Diocese and is located at 129 Winthrop Street, Watertown, New York 13601.

18. At all times relevant and material, Immaculate Heart Central High School (hereinafter “Immaculate Heart”) was and continues to be a parochial school owned and/or operated by the Diocese. Immaculate Heart was and is located in Watertown, NY.

19. At all times relevant and material Plaintiff and his family were members of Holy Family.

20. At all times relevant and material Plaintiff was enrolled as a student at Immaculate Heart.

21. Prior to Plaintiff’s enrollment at Immaculate Heart and joining Holy Family, it is believed and therefore averred that the school and/or church had a history of priests sexually abusing children.

22. Prior to Plaintiff enrolling at Immaculate Heart and joining Holy Family, it is believed and therefore averred that the school and/or church had history of the Diocese transferring priests to the school and/or church who were known and/or suspected to have engaged in inappropriate conduct with children, including, but not limited to, sexual abuse.

23. Defendants, occupying a position of authority and control over Plaintiff, a child, owed Plaintiff a duty to exercise that control reasonably and responsibly, and to ensure that others with the Diocese were properly exercising that authority.

24. In 1967, Joseph A. Conti (hereinafter “Conti”), now deceased, was ordained to the Catholic priesthood and became an employee, servant, and/or agent of the Diocese.

25. In 1969, the Diocese appointed Conti to St. Anthony's where he was assigned the role of Assistant Pastor.

26. In addition, in 1969, the Diocese appointed Conti to a teaching role at Immaculate Heart.

27. At all times material, Conti remained under the direct supervision, employ, and control of the Diocese and/or St. Anthony's. Defendants placed Conti in positions where he had access to and worked with children as an integral part of his work.

28. It is believed and therefore averred that Defendants assigned Conti to St. Anthony's and Immaculate Heart, and failed to sufficiently and adequately investigate his background, qualifications, and fitness to interact with minors, and failed to assess whether he posed a risk of harm to children left in his custody.

29. Defendants failed to properly supervise and/or restrict Conti's activities.

30. It is believed and therefore averred that Defendants assigned Conti to St. Anthony's and Immaculate Heart knowing, or having reason to know, that he lacked the psychological and emotional fitness for such an assignment.

31. Specifically, it is believed and therefore averred that Defendants knew, and/or had reason to know that Conti was a pedophile, child molester, and/or sexual predator who posed a grave danger to children.

32. Defendants assigned Conti to St. Anthony's and Immaculate Heart knowing, and/or having reason to know that he posed a risk of physical harm to children left in his custody.

33. The callous indifference manifested by Defendants to the safety and well being of children left in the care and custody of the Diocese was a function of their paramount desire to

protect the Church, even at the expense of innocent children, who were ravaged, molested, and abused by agents, servants, and/or employees of the Diocese.

Conti's Abuse of Plaintiff

34. Plaintiff was raised in a devout Roman Catholic family. Plaintiff and his family were active members of Holy Family.

35. After the Diocese assigned Conti to St. Anthony's, a sister parish to Plaintiff's family's parish, Holy Family, Conti quickly used his role to earn the trust and confidence of Plaintiff's parents. As a result, Conti would frequently socialize with Plaintiff's parents, and would visit his family home often.

36. Plaintiff participated in youth activities and church activities at Holy Family. As a devout Roman Catholic, Plaintiff developed great admiration, trust, reverence, and respect for the Roman Catholic Church, including Defendants and their agents, including Conti.

37. During and through these activities, Plaintiff, a minor, was dependent on the Diocese. The Diocese had custody of Plaintiff and accepted the entrustment of Plaintiff, and thus had responsibility of Plaintiff and authority over him. The Diocese owed Plaintiff a duty to exercise that control reasonably and responsibly, and to ensure that others within the Diocese were properly exercising that authority, including Conti.

38. In 1972, when Plaintiff was fourteen (14) years old, he enrolled as a freshman at Immaculate Heart, making Conti Plaintiff's Priest and Teacher.

39. As a student, Plaintiff, a minor was dependent on the Diocese. The Diocese had custody of Plaintiff and accepted the entrustment of Plaintiff, and thus had responsibility of Plaintiff and authority over him. The Diocese owed Plaintiff a duty to exercise that control

reasonably and responsibly, and to ensure that others within the Diocese were properly exercising that authority, including Conti.

40. From 1972 to 1973, when Plaintiff was fourteen (14) and fifteen (15) years old, Conti used the trust he gained through his position of authority and relationship with Plaintiff's parents to obtain permission to take Plaintiff on overnight outings.

41. On multiple occasions, and with the permission and under the supervision of the Defendants, Conti took Plaintiff to Conti's father's home located in Syracuse, New York.

42. During these overnight stays when Plaintiff was isolated, and more than sixty (60) miles from his parents and his home, Conti subjected Plaintiff to horrific sexual abuse. Conti abused Plaintiff on approximately six (6) to eight (8) different occasions.

43. During these visits Plaintiff slept alone in a guest bedroom.

44. In the middle of the night, when Plaintiff was asleep, or pretending to be asleep, Conti entered Plaintiff's room. Once inside Conti pulled back the covers, and pulled down Plaintiff's pants and outrageously, unlawfully, and unconscionably touched Plaintiff's penis with his hands. Conti then outrageously, unlawfully, and unconscionably performed oral sex on Plaintiff.

45. Each time Conti sexually abused Plaintiff, he froze in terror.

46. On at least one occasion in the morning following the abuse, Conti said to Plaintiff that the abuse was "[their] secret" and ordered Plaintiff not to tell anyone.

47. As a direct and proximate result of the sexual assault by Conti, Plaintiff suffered physical and emotional injuries.

48. As a direct and proximate result of the forcible oral rape, Plaintiff sustained severe psychological and emotional distress, including severe depression manifested by physical

ailments and complaints including, but not limited to, nightmares, sleeplessness, and substance abuse.

49. Plaintiff has suffered and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self esteem, and loss of enjoyment in life, and has suffered and continues to suffer spiritually.

50. The significant emotional and psychological injuries sustained by Plaintiff dramatically transformed his personality. Plaintiff turned to alcohol shortly after this abuse occurred, and has spent the remainder of his life struggling with alcoholism.

51. All of the above physical, psychological, and emotional injuries were proximately caused by the sexual assault committed by Conti, as well as by the negligence, carelessness, recklessness, and other tortious and outrageous conduct of the other Defendants as set forth in this Complaint.

Defendants' History of Endangering Children and Enabling Abusers

52. Tragically, the abuse suffered by Plaintiff as a result of Defendants' failures is one of countless instances of abuse that has occurred due to Defendants' decades, if not centuries long practice of silencing abuse victims and enabling abusers.

53. The Diocese can be viewed as a microcosm of the international epidemic of the sexual abuse of children by the Roman Catholic Clergy. This abuse was enabled by the Diocese' failure to disclose its knowledge of the rampant sexual abuse, and the policy and practice of failing to report accusations of abuse to police or other public authorities.

54. This practice has been established and repeatedly exposed publicly. This practice is decades, if not centuries, old. The examples that follow are only a sample of the abuse that occurred due to Defendants' failures.

55. The Pennsylvania Grand Jury Report released by the Pennsylvania Attorney General's Office in 2018 reported an incident of abuse that occurred in 1962 and demonstrates Defendants' efforts to silence victims and cover up abuse.

56. The Grand Jury Report states that in August, 1962, Father Thomas Rogers, a priest assigned to the Diocese of Greensburg in Pennsylvania traveled to Saranac, New York where he attempted to sexually assault a high school-aged boy who reported the incident to local police. Specifically, the boy stated that Rogers attempted to sexual assault him while he was hitchhiking, however he was able to escape. The boy described his Rogers and his vehicle to police. Police reported the abuse to Defendant Diocese, which served Saranac, New York. The incomprehensible response was detailed in letters between Defendant Diocese to the Bishop of the Diocese of Greensburg.

57. These letters were presented to the Grand Jury, and revealed that on August 14, 1962, Monsignor Robert J. Giroux of Defendant Diocese described the abuse in a letter to Bishop William Connaroe of the Diocese of Greensburg, and stated that "[knowing] that a priest might be involved the police did not wish to follow their usual procedures." Instead, the Grand Jury found, the "victim's father was called to the rectory to discuss the matter with the police and Church officials" where he "agreed not to pursue charges." In the letter from Defendant Diocese's agent, Msgr. Giroux he described this meeting, and described the victim's father as "a good Catholic."

58. The 2018 Grand Jury Report further detailed a letter from Defendant Diocese's agent, Bishop James Johnston Navagh of Ogdensburg to Bishop Connare of Greensburg wherein Bishop Navagh wrote "that the matter of Rogers' attempted o assault had been "well handled here," he pressed Connare not to permit Rogers to return to the area because of the

involvement of the state police...and the father of the victim who he believed would pursue charges should Rogers return.” Rogers remained an active Priest until 2002.²

59. In 1985, Fr. John J. Fallon, a Diocese priest ordained in 1955, was arrested on charges of receiving child pornography in the mail. Fallon pleaded guilty and was sentenced to five years of probation. The Diocese placed Fallon on sick leave until his retirement, Fallon was never removed, nor was his conviction publicly acknowledged by the Diocese until 2018.

60. In 2002, in response to widespread public outcry, the Diocese instituted a zero tolerance policy, and finally acknowledged the decades of abuse that occurred and the cover up that followed.

61. In 2002, after the institution of the zero tolerance policy, the Diocese finally removed members of their clergy for sexual abuse of children.

62. In 2002, the Diocese publicly announced the removal of four active priests within the Diocese for substantiated reports of sexual abuse of children: (1) Fr. Theodore Gillette; (2) Fr. Robert M. Shurtleff; (3) Fr. Clark S. White; (4) Fr. David Wisinewski. The four defrocked priests had been ordained between 1970 and 1981 and remained active clergymen until their removal in 2002.

63. In 2003, the Dioceses publicly announced the removal of Fr. Paul Worczak due to substantiated reports of sexual abuse of children. The defrocked priest was ordained in 1968. The Diocese was notified by the victim in April, 2002. The victim reported to the Diocese that in 1971, when he was 11 years old, he was sexually abused by Worczak. The victim further reported that he was aware of other children who were also abused by Worczak. Despite this report, the Diocese kept Worczak as an active Priest for over a year. Worczak was finally

² PENNSYLVANIA OFFICE OF THE ATTORNEY GENERAL, REPORT I OF THE 40TH STATEWIDE INVESTIGATING GRAND JURY (2018).

removed in March, 2003. Parishioners were not made aware of the reports, nor were they told the reason for removal until years later.

64. In 2004, Diocesan Administrator Monsignor Richard Lawler for the Diocese, publicly released staggering abuse statistics in a letter to the membership wherein he disclosed that since 1950, 56 individuals disclosed sexual abuse by Diocese Clergy. Of those 56, 35 were minors at the time of the abuse. The reports of abuse were made against 35 members of the Diocese Clergy. The Diocese determined that 23 of the accused priests had credible allegations of sexual abuse against them. These statistics were reported after the Diocese examined the records of complaints made to the Diocese from 1950 through 2004.

65. In 2006, the Diocese announced that Fr. John Hunt was placed on administrative leave and subsequently resigned after substantiated reports of inappropriate sexual behavior. The defrocked priest was ordained in 1969.

66. In 2008, the Albany Diocese acknowledged that in 1981, Fr. Carl Stone was removed after he plead guilty to sodomizing two teenage brothers. The Albany Diocese further admitted that Stone was previously assigned to Defendant Diocese where he was also accused of sexual abuse.

67. In 2018, the Diocese Bishop finally released the names of 31 priests who were active or former Priests within the Diocese that had been credibly accused of sexual abuse. Among the 31 was Plaintiff's abuser, Conti.

68. Defendants regularly, routinely, and/or frequently assigned, re-assigned, or transferred priests who had been credibly accused of molesting children to new assignments where they retained access to, and control over, children.

Defendants' Violated the Duties Imposed Upon Them by Law

69. At all times relevant hereto, Defendants operated multiple parishes and schools in eight (8) counties in the State of New York.

70. The parishes and schools included students of all ages ranging from pre-kindergarten through high school. Students in these schools and parishes, including the Plaintiff, had interactions with clergy, were taught to respect and listen to the clergy and follow and obey their commands.

71. The Diocese owed a duty to the children left in its custody and control, including Plaintiff herein, to provide a reasonably safe environment for them, to ensure their safety, and to provide reasonably necessary supervision and oversight for their safety and welfare.

72. The Diocese occupied a special relationship to the children left in its custody and control, including Plaintiff herein, and owed to them the highest duty of care to ensure their safety and well-being.

73. Defendants occupied a position of *in loco parentis*, and were under a duty to protect Plaintiff, and to provide him with safety and supervision akin to that which would have been provided by his own parents.

74. As set forth in this Complaint, the Diocese failed to fulfill its legal duty to provide a reasonably safe environment for the children left in its custody, care, and/or control.

75. The Diocese had a duty to take reasonable steps to ensure that priests in their parishes were psychologically fit to supervise, instruct, and mentor the children in the parishes.

76. As set forth in this Complaint, the Diocese failed to fulfill its legal duty to ensure that priests in their parishes were psychologically fit to supervise, instruct, and mentor the children in the parishes.

77. To the contrary, the Diocese assigned to positions within the clergy individuals who it knew, and/or had reason to know, to be pedophiles, child molesters, sexual predators, and mentally-ill.

78. These assignments were neither infrequent nor unusual. The sexual abuse of children by members of the Roman Catholic Church Clergy is widely recognized to be prolific and widespread. This abuse, and the subsequent cover up has been unearthed throughout the United States through multiple Grand Jury Investigations.

79. As a result of Defendant's negligent, careless, reckless, and intentional acts and omissions, countless children, including Plaintiff, were forcibly raped and sexually abused by depraved predators and molesters, who exploited their position in the clergy and dishonored the Catholic Church as they defiled innocent children.

80. As set forth in this Complaint, forth in this Complaint, Defendant failed to take reasonable steps to ensure that priests at Defendant's churches were psychologically fit to supervise, instruct, and mentor students in the Defendant's schools. As a direct result of Defendant's tortious acts and omissions, Plaintiff suffered the injuries set forth in this Complaint.

81. Defendants knowingly employed, retained, and assign priests who they knew, and/or had reason to know, were psychologically unfit to supervise, instruct and mentor children. As a direct result of Defendant's acts, Plaintiff suffered the injuries set forth in this Complaint.

82. Defendants employed, retained, and assigned clergy who it knew or should have known were pedophiles, sexual predators, and/or mentally ill.

83. Defendant failed to take reasonable steps to ensure that teachers and clergy in Defendant's schools and churches were psychologically fit to supervise, instruct, and mentor students in those schools. These failures included the following:

- a. Failure to investigate the backgrounds of teachers and clergy in the employ or service of the Diocese;
- b. Failure to prohibit, restrict, or limit the activities of teachers and clergy suspected of sexual abuse and/or those known to be sexual predators and abusers;
- c. Failure to reasonably and properly investigate allegations of sexual molestation and/or child abuse;
- d. Failure to properly train and instruct investigators;
- e. Failure to have in place standards of acceptable and unacceptable conduct;
- f. Failure to formulate, effectuate, and enforce policies to prevent and/or minimize the risk of sexual abuse of children by agents, servants, and/or employees of the Diocese;
- g. Failure to designate competent investigators to evaluate complaints of sexual abuse;
- h. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities; and
- i. Failure to have in place standards for reporting acts of sexual misconduct to public officials, parents, and/or parishioners.

84. Defendant employed, retained, and assigned priests and other clergy whose services frequently placed them into close contact with children outside the presence of other adults.

85. Defendant had a duty to take reasonable steps to ensure that the priests and other clergy whose duties placed them in close proximity to children were psychologically fit to perform those duties without jeopardizing the safety of the children.

86. Defendant had a duty to take reasonable steps to supervise the mentoring and other interactions between its priests/teachers and the children left in their care and custody.

87. Defendant failed to take reasonable steps to ensure that Conti was psychologically fit to mentor and/or interact with children in Defendant's parishes even after the Defendants knew, and/or should have known, of the dangers posed by Conti. As a direct result of the Defendant's acts, Plaintiff suffered the injuries set forth in this Complaint.

88. Defendant employed, retained, and assigned priests who it knew, or should have known, were pedophiles, sexual predators, and/or mentally ill, including, but not limited to, Conti.

89. Defendant's wrongdoing, however, did not stop there. Defendant employed deliberate strategies to conceal known abuse by priests and other persons in the employ or service of the Diocese.

90. It is believed and therefore averred that these strategies included the following:

- a. Conducting sham investigations which were designed to avoid establishing culpability of priests accused of sexual abuse;
- b. Failing to interview witnesses or persons who possessed, or may have possessed, information which might tend to establish the guilt of an accused priest;
- c. Routinely transferring priests suspected of sexual abuse, child abuse, molestation, or pedophilia to other parishes;
- d. Deliberately and aggressively investigating claimants who leveled allegations against priests rather than investigating the priests themselves;
- e. Purposefully failing to inform parishioners of the acts of sexual misconduct and/or allegations of same, despite circumstances which gave rise to a duty to disclose such information;
- f. Knowingly harboring priests from other dioceses who were suspected and/or accused of sexual misconduct;
- g. Purposefully refusing to notify law enforcement officials when there existed reasonable grounds to believe that an Archdiocese priest or teacher had engaged in improper sexual conduct with children;

- h. Purposefully destroying record evidence of misconduct by priests or other Archdiocese personnel;
- i. Publicly promising not to assign priests who had been diagnosed as pedophiles or ephebophiles, but then ensuring that Church-affiliated treatment centers would not diagnose priests as such;
- j. Purposefully withholding incriminating information from therapists so as to make it more difficult for priests to be diagnosed as pedophiles or ephebophiles; and
- k. Creating “limited ministries” for priests diagnosed as pedophiles, but failing to enforce the limitations supposedly imposed on such priests.

91. Defendant outrageously employed these strategies knowing that they exposed children, including Plaintiff, to a significant risk of serious physical and psychological harm, including a significant risk of rape. Defendants’ actions were willful, malicious, wanton, outrageous, abhorrent, abominable, revolting, vile, and unconscionable because Defendants were motivated by a desire to protect the Church at the expense of children who would foreseeably be sexually abused and raped.

FIRST CAUSE OF ACTION

NEGLIGENCE

92. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

93. Defendants owed Plaintiff a duty of reasonable care to protect the Plaintiff from injury.

94. Defendants owed Plaintiff a duty of reasonable care because each Defendant had a special relationship with Plaintiff.

95. Each Defendant also had a duty arising from their special relationship with Plaintiff, Plaintiff’s parents, and other parents of young, vulnerable children, to properly train and

supervise its priests. The special relationship arose because of the high degree of vulnerability of the children entrusted to Defendants' care. As a result of the high degree of vulnerability and risk of sexual abuse inherent in such a special relationship, Defendants had a duty to establish measures of protection not necessary for adults or better able to safeguard themselves.

96. Defendants owed Plaintiff a duty to protect Plaintiff from harm because each Defendant had a special relationship with Fr. Conti.

97. Defendants owed Plaintiff a duty of reasonable care because each Defendant solicited youth and parents for participation in enrollment and participation in its youth programs; encouraged youth and parents to have the youth participate in their programs; undertook custody of minor children, including Plaintiff; promoted their facilities and programs as being safe for children; held their agents, including Fr. Conti, out as safe to work with children; encouraged parents and children to spend time with their agents; and/or encouraged their agents, including Fr. Conti, to spend time with, interact with, and recruit children.

98. By holding Fr. Conti out as safe to work with children, and by undertaking the custody, supervision of, and/or care of the minor Plaintiff, each Defendant entered into a fiduciary relationship with the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendants undertaking the care and guidance of then vulnerable minor Plaintiff, each Defendant held a position of power over Plaintiff.

99. Further, Defendants, by holding themselves out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment. Defendants thus entered into a fiduciary relationship with Plaintiff/ Defendants exploited their position of power, putting Plaintiff at risk to be sexually assaulted.

100. By accepting custody of the minor Plaintiff, Defendants established an *in loco parentis* relationship with Plaintiff and in so doing, owed Plaintiff a duty to protect Plaintiff from injury.

101. By establishing and/or operating the Diocese of Ogdensburg and Immaculate Heart, which offered educational programs to children including a school, and by accepting the enrollment and participation of the minor Plaintiff as a participant in those educational programs, Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from generally foreseeable dangers.

102. Defendants owed Plaintiff a duty to protect Plaintiff from harm because Defendants invited Plaintiff onto their property and Fr. Conti posed a dangerous condition on Defendants' property.

103. Defendants breached its duties to Plaintiff by failing to use reasonable care. Defendants' failures included, but are not limited to, failing to properly supervise Fr. Conti, failing to properly supervise Plaintiff, and failing to protect Plaintiff from a known danger.

104. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering.

SECOND CAUSE OF ACTION

NEGLIGENT TRAINING AND SUPERVISION

105. Plaintiff incorporates all consistent paragraphs of this Complaint as fully set forth under this count.

106. At all times material, Fr. Conti was employed by Defendants and was under each Defendants' direct supervision, employ, and control when he committed wrongful acts

alleged herein. Fr. Conti in the wrongful conduct while acting in the course and scope of his employment with Defendants and/or accomplished the sexual abuse by virtue of his job-created authority.

107. Defendants had a duty, arising from their employment of Fr. Conti, to ensure that Fr. Conti did not sexually abuse children.

108. Further, Defendants had a duty to train and educate employees and administrators and establish adequate and effective policies and procedures calculated to detect, prevent, and address inappropriate behavior and conduct between clerics and children.

109. Defendants were negligent in the training, supervision, and instruction of their employees. Defendants failed to timely and properly educate, train, supervise, and/or monitor their agents or employees with regard to policies and procedures that should be followed when sexual abuse of a child is suspected or observed.

110. Defendants were additionally negligent in failing to supervise, monitor, chaperone, and/or investigate Fr. Conti and/or in failing to create, institute, and/or enforce rules, policies, procedures, and/or regulations to prevent Fr. Conti's sexual abuse of Plaintiff.

111. In failing to properly supervise Fr. Conti, and in failing to establish such training procedures for employees and administrators, Defendants failed to exercise the care that a reasonably prudent person would have exercised under similar circumstances.

112. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering.

THIRD CAUSE OF ACTION

NEGLIGENT RETENTION

113. Plaintiff incorporates all consistent paragraphs of this Complaint as fully set forth under this count.

114. Defendants became aware or should have become aware of Fr. Conti's propensity for child sexual abuse, and failed to take any further action to remedy the problem and failed to investigate or remove Fr. Conti from working with children.

115. Defendants negligently and/or recklessly retained Fr. Conti with knowledge of Fr. Conti's propensity for the type of behavior which resulted in Plaintiff's injuries in the action.

116. Defendants negligently and/or recklessly retained Fr. Conti in a position where he had access to children and could foreseeably cause harm with Plaintiff would not have been subjected to had Defendants acted reasonably.

117. In Failing to timely remove Fr. Conti from working with children or terminate the employment of Fr. Conti, Defendants negligently and/or recklessly failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

118. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing causes of action, Plaintiff prays for judgment against Defendants in an amount that will fully and fairly compensate Plaintiff for Plaintiff's injuries and damages and for any other relief the Court deems appropriate. The amount of damages sought in

this Complaint exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

DATED: October 3, 2019

A handwritten signature in black ink, appearing to read 'B. Kent', with a horizontal line extending to the right.

Brian D. Kent, Esq.
LAFHEY, BUCCI & KENT, LLP
1435 Walnut Street, Suite 700
Philadelphia, PA 19102
Tel: (215) 399-9255 / Fax: (215) 241-8700